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Subject: Microsoft Antitrust Case

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To the minds of many Americans, the results of the Microsoft Antitrust case have called into question the integrity of our legal system as well as our political process. And to those which have not yet noticed, I think historians will take note on behalf of future generations.

In the past few years, Americans have been outraged at revelations of Chinese attempts to influence our political process through campaign contributions. It is well established in fact that Microsoft did give massive campaign contributions to members of congress and one erstwhile presidential candidate, namely George W. Bush. Additionally, lobbying efforts -- either directly or indirectly -- were made to others in congress as well as the Justice Department.

In light of these facts, it was with horror and dismay that I watched the direction and aspiration of the Justice Department's antitrust efforts change nearly 180 degrees following the presidential election (in stark contrast to previous tradition). The dangerous message which is being broadcast here is manifold:

First, it is possible to commit a serious crime in this country, be found guilty of committing that crime, and by manipulating the length of the trial beyond the term of a presidential administration it is possible to escape the original intentions of your prosecutors, effectively nullifying the most detrimental outcomes.

Second, the concept of "one man, one vote" is a joke in this country. Here we vote with dollars, and the more dollars you have, the more votes you get to make.

Third, and most disturbing, there is no longer separation of powers between the executive and judicial branches of government, as the framers of our constitution wisely intended.

At other times in our history, foreigners committing similar acts have been imprisoned for treason. At other times in our history, Americans committing similar acts have been tried -- and committed -- for racketeering.

Additionally, when people have knowingly submitted false evidence in a trial, they have been tried and committed for perjury -- again, leading to imprisonment. Microsoft was actually caught in the act of falsifying videotapes entered into evidence not once, not twice, but three times in the course of its antitrust trial.

I cannot recall when such egregious acts been ever been treated so lightly in America. Please keep in mind that we are not talking about abstract concepts of "harm to consumers" or "diminished competition in the computer market". We are talking about the very palpable pain and suffering of literally tens of thousands of hard-working people losing their jobs, businesses, and fortunes when Microsoft's illegal acts bankrupted thousands of businesses. Most of these businesses did not fail because they were making inferior products, nor because they were poorly managed, but because of the unlawful acts of an unfair competitor.

Meanwhile the founders, employees, and investors in Microsoft have made literally billions of dollars as a result of these illegal actions -- which apparently everyone who benefited gets to keep. Where is the deterrent to committing the same illegal acts in the future?

Microsoft has already been found guilty of violating antitrust laws. The entire reason the antitrust trial occurred is due to Microsoft's violations of a previous consent decree. Now the Justice Department proposes to remedy Microsoft's behavior with yet another, impotent consent decree.

This solution defies logic: When someone is found guilty of breaking laws, the punishment amounts to making them say "I'm sorry" and then

promise not to do it again. Of course when the same perpetrator commits the exact same crime again (except worse) the new, improved punishment amounts to making them saying "I'm really, REALLY sorry this time" and promise not to do it again. Ever.

Except with Microsoft, they haven't even acknowledged that they are guilty. Publicly they maintain that they are the ones being injured by the "overzealous" efforts of the Justice Department (which at this point is anything but "zealous"). Microsoft is nowhere near saying "I'm sorry." So with Microsoft's established pattern of breaking consent decrees, what assurance do the American people have that they will actually adhere to this new one?

Other arguments diminishing the need for drastic remedies similarly defy logic: Some would have us believe that with AOL purchasing Netscape, the competitive landscape has changed faster than the trial could proceed, so there is no longer any need for anything to be done. Perhaps we should apply the same logic in a murder trial: once a murderer has completed killing their victim, there is no longer any need for punishment, because there is no way that the victim could possibly be harmed again. Microsoft effectively put Netscape out of business (it would never have been possible for AOL to purchase them without a tremendous devaluation of their stock); their products are no longer used widely, and they have lost all power to compete in the market with Microsoft -- not because they produced an inferior product, but as a direct result of Microsoft's illegal and anticompetitive acts.

An effective remedy should be one which does not cost the American taxpayer the burden of a Saddam Hussein-style inspections of Microsoft's internal workings. As with nuclear inspections of Iraq, Microsoft has demonstrated its willingness to play a shell game with incriminating evidence. No, clearly Microsoft's past behavior demands that an intelligent person require permanent structural change to the company to pave the way for real competition in the computing market, and will furthermore show that in America, nobody is above the law -- no matter how much money or political influence they wield.

The nature of Microsoft's unfair advantage which they have abused in the past comes from the collusion of several essentially separate business units, which must be cleaved in the remedy stage of this trial in order to have lasting beneficial impact:

- 1) operating system (OS) software
- 2) software development tools
- 3) productivity applications software
- 4) Internet client & server software
- 5) media software (Windows media, et al)
- 6) hardware
- 7) thousands of substantial holdings in other companies in disparate markets

Due to the massive size of Microsoft and its demonstrated ability to abuse this clout, simply dividing the company into two would still produce two rabid 800-pound gorillas, rather than two well-behaved chimps willing to play nicely in their respective markets. Three or four separate entities -- with mechanisms in place to prevent continued collusion -- are required to restore healthy competition to all these markets. Furthermore, Microsoft should be required to divest itself of holdings in other companies, which it also uses to maintain and extend its monopolies.

Additionally, restitution should be required, considering the billions of dollars in gains that Microsoft and its investors have accrued as a result of these illegal practices. There simply must be a deterrence to breaking the law, and keeping the profit of billions is not a deterrence.

Since our entire society has been damaged by Microsoft's actions, our

entire society should receive resitution -- to the tune of tens (if not hundreds) of billions of dollars -- in the form of infusions to our nation's education system. Contrary to the previous proposals in civil suits, Microsoft should have no control -- directly or indirectly -- over the ways in which this money is spent. It could be used to offer equal technological access to all in our society, as well as explore implementing exciting new possibilities for integrated accelerative learning approaches that have been proven around the world to work eminently better than our own current system.

I also feel that officials at Microsoft should be prosecuted for racketeering and perjury efforts which occurred both during and after the antitrust trial. Again, people in our society should be treated equally in the eyes of the law, no matter how deep their pocket books happen to be.

Also, the suggestion of making Microsoft's OS source code "public source" would simply benefit Microsoft, by encouraging wider adoption of the OS, because it would essentially be FREE. This would mimic the cycle of damage done to Netscape when Microsoft chose to give away Internet Explorer.

In the "public source" scenario, Microsoft would also benefit from the combined efforts of thousands of programmers attempting to fix the many thousands of bugs that are known to exist within its operating systems. Microsoft has the particularly slimy business model of knowingly releasing software which is profoundly flawed, then charging its customers for a re-labeled product which partially fixes the bugs found in the previous generation, along with some additional new features and new bugs. This has been the business model of "upgradeware" that Microsoft has employed when convincing people to upgrade from Windows 95, to Windows 98, to Windows ME, and now Windows XP.

Recall that separation of powers and the public's faith in the integrity of the American political and judicial processes are literally what is at stake as the remedies are applied in this trial. Please show Microsoft that they are not above the law.

I offer my sincere appreciation for your time and consideration.

Samuel Goff